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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,395	03/26/2001	Edward Schwalb	P20688	7224

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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER

FREJD, RUSSELL WARREN

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/816,395

Applicant(s)

SCHWALB ET AL.

Examiner

Russell Frejd

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 16 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Examination of Application #09/816,395

1. Claims 6-13 of application 09/816,395, filed on 26-March-2001, are presented for examination in response to applicant's amendment dated 16-June-2004, and the Terminal Disclaimer. This application is CON of 09/034,356, filed on 4-March-1998, now U.S. Patent No. 6,256,595. Claims 6, 9 and 10 are amended, with claims 6-13 pending.

Claim Rejections under 35 U.S.C. § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by LoNegro et al., hereinafter LoNegro, patent no. 5,548,707.

3.1 In regard to claim 6, LoNegro disclosed the invention as claimed, including a computer-aided design and drafting system, including dimension indicators in a drawing to identify the dimensions of one or more geometric objects in the drawing, the system comprising:

a list of objects and corresponding dimension types and text locations [col. 7, Table 1], wherein after the user indicates a placement location, the system displays the indicator in the vicinity of that location [col. 7, lines 38-41 and Fig. 6B](applicant's repositioner for repositioning the dimension to a desired position relative to the model, and a display of the dimension at the desired position); and

a moving “image” of the appropriate dimension indicator, the indicator being displayed after the user selects an object and while the user is **moving around the display screen** (emphasis added) trying to decide the point where the indicator should be placed, and once the desired point is reached, the user confirms that the location and the image is replaced, by the actual dimension indicator [col. 10, lines 34-41](applicant’s user dragging the dimension to the desired position).

3.2 In regard to claim 10, LoNegro teaches a computer-aided design and drafting system, including dimension indicators in a drawing to identify the dimensions of one or more geometric objects in the drawing [col. 1, lines 38-41], and [col. 2, lines 20-27] programming means for controlling the system to: display at least one geometric object (applicant’s model representation on a display);

determine the geometry of the displayed object (applicant’s selecting candidate entities from an indicator)[see also col. 10, lines 5-8];

choose one of a plurality of possible dimension indicators for the object based on the determination in the previous step (applicant’s dimension defining system for defining each dimension associated with the selected entities);

display an image of the chosen dimension indicator until a placement location is selected for the chosen dimension indicator (applicant’s dimension display);

a list of objects and corresponding dimension types and text locations [col. 7, Table 1], wherein after the user indicates a placement location, the system displays the indicator in the vicinity of that location [col. 7, lines 38-41 and Fig. 6B](applicant’s repositioning the dimension and displaying the dimension at the desired position); and a moving “image” of the appropriate dimension indicator, the indicator being displayed after the user selects an object and while the

user is moving around the display screen trying to decide the point where the indicator should be placed, and once the desired point is reached, the user confirms that the location and the image is replaced, by the actual dimension indicator [col. 10, lines 34-41](applicant's user dragging the dimension to the desired position).

Claim Rejections under 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering the objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 7-9 and 11-13 are rejected under 35 U.S.C. 103 as being unpatentable over LoNegro et al., hereinafter LoNegro, patent no. 5,548,707, in view of Fitzgerald, Jr. et al., hereinafter Fitzgerald, patent no. 4,855,939.

5.1 LoNegro teaches a computer-aided design and drafting system, including dimension indicators in a drawing to identify the dimensions of one or more geometric objects in the

drawing [col. 1, lines 38-41], and [col. 2, lines 20-27] programming means for controlling the system to: display at least one geometric object (applicant's model representation on a display);

determine the geometry of the displayed object (applicant's selecting candidate entities from an indicator)[see also col. 10, lines 5-8];

choose one of a plurality of possible dimension indicators for the object based on the determination in the previous step (applicant's dimension defining system for defining each dimension associated with the selected entities);

display an image of the chosen dimension indicator until a placement location is selected for the chosen dimension indicator (applicant's dimension display);

a list of objects and corresponding dimension types and text locations [col. 7, Table 1], wherein after the user indicates a placement location, the system displays the indicator in the vicinity of that location [col. 7, lines 38-41 and Fig. 6B](applicant's repositioning the dimension and displaying the dimension at the desired position); and a moving "image" of the appropriate dimension indicator, the indicator being displayed after the user selects an object and while the user is moving around the display screen trying to decide the point where the indicator should be placed, and once the desired point is reached, the user confirms that the location and the image is replaced, by the actual dimension indicator [col. 10, lines 34-41](applicant's user dragging the dimension to the desired position)(claim 9);

graphically portraying a length indicator including a double-arrowheaded line extending between two endlines, and a text portion that includes a numerical value of the length of the spline's curved surface [col. 7, line 64 through col. 8, line 8, and Figs. 8A-B](applicant's extension line creator for displaying extension lines between each attachment point and the proximate end of a repositioned arrow line)(claim 8); and

entity selections including a circle, an arc, a spline (bend line), a line; and defining the dimension as either a diameter, a radius, or a length [col. 7, Table 1 and lines 36-63](claims 12 and 13).

5.2 Neither LoNegro nor Fitzgerald specifically teach the 3-D sheet metal part model of claims 7 and 11. However, Fitzgerald discloses a CAD drafting system for drawing 3-D objects, which also includes an automatic dimensioning system. The examiner respectfully takes Official Notice that a collection of geometric models constructed with a CAD drafting system, would include sheet metal materials, since sheet metal is a well known and often-used construction material. A person of ordinary skill in the drafting arts would not want to exclude parts made from flat stock material in the dimensioning system. Accordingly, the person would have been motivated to include dimensioning capabilities that incorporate this construction material.

Examiner's Reply

6. The Examiner's rejections have been based on the arguments necessitated by Applicant's amendments and remarks. Specifically, Applicant amended recitations in claims 6, 9 and 10, claiming: **in response to a user dragging the dimension to the desired position.**

The Examiner respectfully posits that the LoNegro (U.S. Patent No. 5,548,707) reference anticipates this limitation by the *moving "image" of the appropriate dimension indicator, the indicator being displayed after the user selects an object and while the user is moving around the display screen (i.e. "dragging the dimension") trying to decide the point where the indicator should be placed, and once the desired point is reached, the user confirms that the location and the image is replaced, by the actual dimension indicator [col. 10, lines 34-41].*

Accordingly, the previous art rejection, which was specifically addressed by Applicant's remarks pertaining only to the terms of the recitation noted above, is maintained in its entirety.

7. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

Response Guidelines

8. A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION, AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

9. **Any response to the Examiner in regard to this Final action should be**

directed to: Russell Frejd, telephone number (703) 305-4839, Monday-Friday from 0630 to 1500 ET, or the examiner's supervisor, Jean Homere, telephone number (703) 308-6647. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

mailed to: **Box AF**
Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to: (703) 872-9306

Hand-delivered responses should be brought to 220 South 20th Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, VA, 22202.

Date: 17-September-2004



**RUSSELL FREJD
PRIMARY EXAMINER**